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Group Art Unit: 2614

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Supervisory Examiner: John Miller

UNITED STATES PATENT AND TRADEMARK OFFICE

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Pages: Cover + 1 + 1 + 1 + 5 = 9

Date: June 22, 2006

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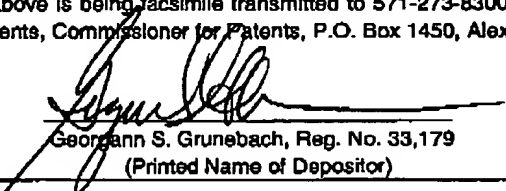
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Georgann S. Grunebach, Reg. No. 33,179
(Printed Name of Depositor)June 22, 2006
(Date of Signature)

Attention: Commissioner for Patents

Attorney Docket No. PD-200153A

Please find attached Re:

Serial No.: 09/732,498

Filing Date: December 6, 2000

- > TRANSMITTAL FORM PTO/SB/21 (1 page)
- > PETITION FOR TWO-MONTH EXTENSION OF TIME PTO/SB/22 (1 page in duplicate)
- > REPLY BRIEF IN RESPONSE TO EXAMINER'S ANSWER DATED FEBRUARY 22, 2006 (5 pages)

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PTO/SB/21 (09-04)

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**TRANSMITTAL
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Application Number

09/732,498

Filing Date

December 6, 2000

First Named Inventor

Derek Footer

Art Unit

2614

Examiner Name

SHELEHEDA, James R.

Attorney Docket Number

PD-200153A

RECEIVED**CENTRAL FAX CENTER****JUN 22 2006****ENCLOSURES (Check all that apply)**

Fee Transmittal Form



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Amendment/Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



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Certified Copy of Priority Document(s)

Reply to Missing Parts/
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Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

The DirectTV Group, Inc.

Signature

Printed name

Georgann S. Grunebach

Date

June 22, 2006

Reg. No.

33,179

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of : Footer et al.
Serial No. : 09/732,498
Filed : December 6, 2000
For : SYSTEM FOR OBTAINING DATA
REGARDING CUSTOMER USE OF
INTERACTIVE TELEVISION
Examiner : SHELEHEDA, James R.
Art Unit : 2614
Our File No. : PD-200153A

APPELLANT'S REPLY BRIEF

Mail Stop Appeal Brief-Patents
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to Rules of Practice § 41.41, appellant submits this reply brief to the Examiner's answer as mailed on February 22, 2006.

REPLY TO ARGUMENTS SET FORTH IN EXAMINER' S ANSWER

A. Rejection of claims 1-11 and 13 under § 103 based upon Brown in view of Travaille,
Leermakers and Gessell

In order to combine prior art references, there must be some teaching, suggestion and/or motivation to combine them in order to achieve the subject matter of the invention in question.

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Failure to find this teaching or motivation to combine references may indicate a hindsight reconstruction of the art by the Examiner.

In the present case, initially the Examiner makes several statements regarding the Appellant's position that Travaille and Leermakers are irrelevant. However, the teachings of Travaille and Leermakers as a whole are relevant with respect to any teachings or suggestions that may lie within them. Examiner further states that Leermakers has been mischaracterized by the Appellant. Specifically, the Examiner states that "the argument is irrelevant to the features that Leermakers is relied upon to teach". What is taught and suggested in Leermakers is what would lead one skilled in an art to combine it with the other cited references in order to achieve the subject matter of Appellant's invention. Therefore, all of what is disclosed in Leermakers is relevant with respect to this rejection.

First, the fact that Leermakers is principally directed towards the downloading of software for PDA's is relevant because that would direct one's view of Leermakers when seen alone. Furthermore, the lack of teaching or disclosure of day logging transactions or navigation activity demonstrates a lack of teaching or suggested combination of what is disclosed or taught in the other references as set forth in Appellant's appeal brief. The source of motivation to combine Brown, Travaille, Leermakers, and Gessell must emit from the references themselves absent any guidance from the present invention.

The Applicant posits that the fact that Leermaker and Brown download different types of software through satellite systems has nothing to do with their relied upon teachings. Contrary to the Examiner's beliefs, the teachings and suggestions within Brown and Leermakers are what should motivate one to combine them where the two references teach different applications of software that would lead one to believe that the references teach divergent teachings and therefore it's a lesser likelihood to combine them to achieve the subject matter of the Applicant's invention. Respectfully submitted, throughout the Examiner's Answer, the Examiner continues to point to erroneous bases for this obviousness rejection and continually states the teachings of each reference such as Leermakers and Brown are irrelevant excluding the particular elements that the Examiner cites to in the reference, such a position is totally inconsistent with the obviousness standard.

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Furthermore, the Examiner's statements on page 9 of the Examiner's Answer specifically support the Examiner's use of the Appellant's invention in order to support or in order to select these particular references. As noted, the Examiner points to the Appellant's own specification for disclosing encapsulation data within TCP/IP protocol as disclosed in Gessell. However, the first problem with this contention is that it's based on the Applicant's specification, not on the claims that define Applicant's invention.

Second, again the Examiner is pointing to the Appellant's invention as a road map in order to select these particular references. The Examiner's statements with respect to Gessell being analogous art do not provide a modicum of rebuttal to overcome Appellant's arguments. Gessell is related to a telecommunications network and fails to relate to a broadcast system as recited in Applicant's claims. Clearly one skilled in the art would not look to Gessell in order to achieve the subject matter of Appellant's invention.

The Examiner's Answer and prior statements with respect to this rejection simply do not support the combination of Brown, Travaille, Leermakers, and Gessell. Applicant submits to the Board that this rejection should be overturned and claims 1-11 and 13 do indeed stand allowable.

B. Rejection of claims 14-17 under § 103 based upon Brown in view of Travaille, Leermakers and Diwan.

As set forth above the combination of Brown, Travaille, and Leermakers within themselves lack any teaching motivation or suggestion to combine them. Nor does the addition of Diwan cure the deficiencies associated with Brown, Travaille, and Leermakers.

The Examiner's Answer maintains that Diwan is analogous art; however as set forth in Appellant's brief, Diwan is described in relation to networks such as the internet, intranet, wide area network or other networks but specifically not directed toward broadcast systems as recited in Applicant's claims.

Furthermore, as the Appellant sets forth in its Appeal Brief, claim 14 recites features that are not disclosed in any of the four references set forth by the Examiner. Finally, the Examiner's arguments in the answer and in his prior office actions fail to support this

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obviousness rejection. It however does demonstrate hindsight prosecution and a lack of full disclosure of each and every element of Appellant's claimed elements. Appellant therefore requests reversal of the Examiner's rejection and allowance of claims 14-17.

C. Rejection of claim 12 under § 103 based upon Brown, Travaille, Leermakers, Gessell, and Hendricks.

We respectfully submit that the Examiner maintains his rejection of claim 12 presumably, because the Examiner's statement states that claims 14-17 have been rejected over Brown in view of Travaille, Leermakers, Gessell, and Hendricks. The Examiner's Answer is inconsistent with the Examiner's statements in the prior office actions and Appellant maintains that claim 12 stands allowable.

In rejecting claim 12, the Applicant believes the Examiner adds the Hendricks reference in an attempt to piece meal references together in order support these hindsight obviousness rejections set forth in this prosecution. Applicant posits that Hendricks does not cure the deficiencies associated with Brown, Travaille, Leermakers, and Gessell as discussed throughout the Appellant's briefs, nor are there any teachings in Brown, Travaille, Leermakers, and Gessell to incorporate the art of Hendricks.

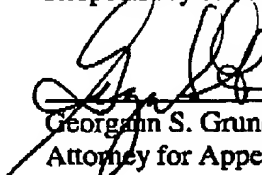
Appellant therefore requests reversal of the Examiner's rejection of claim 12 and prompt allowance thereof.

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Conclusion

In view of the foregoing remarks, it is respectfully submitted that all the rejections made in the final office action should be overturned.

Respectfully submitted,


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June 22, 2006

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